

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILE

05 APR 25 PM 4:00

ROBERT R. DILLON
CLERK, U.S. DISTRICT COURT
W.D. OF TN, MEMPHIS

GREG NEWSOME, et al.,

Plaintiffs,

v.

No. 02-2203 B

NORTHWEST AIRLINES CORP., et al.,

Defendants.

ORDER DENYING PLAINTIFFS' MOTION TO STRIKE DEFENDANTS' MOTIONS TO
DISMISS OR IN THE ALTERNATIVE FOR CONTINUANCE UNDER FED. R. CIV. P. 56(E)

Before the Court is the motion of the Plaintiffs, Greg Newsome, Christian White, Daren Bow, James Hagbloom, Jeffrey George Unger, Jerome Donald Unger, Jeseoph Vella, Matthew Peak, Raymond Downie, Scott Donahoe, Timothy Schmittou, Thomas Joseph Hales, Amy Boutwell, Michael Beri, Rasashan Salyasahn, John Brake, Steven Nowitzke, Ronald John Covacs and Robert W. Clarin, to strike the motions to dismiss filed on behalf of the Defendants, Northwest Airlines Corp., Northwest Airlines, Inc. ("Northwest"), International Association of Machinists and Aerospace Workers ("IAM"), and Aircraft Mechanics Fraternal Association ("AMFA"), or, in the alternative, for a continuance pursuant to Rule 56(e) of the Federal Rules of Civil Procedure for the purpose of conducting discovery to rebut the Defendants' claims.

The Plaintiffs have not identified the Federal Rule upon which their motion to strike is based. The only rule that speaks to such motions is Rule 12(f), which permits the Court to "order stricken from any pleading any insufficient defense or any redundant, immaterial, impertinent, or scandalous matter." Fed. R. Civ. P. 12(f). The Rule does not, however, permit the Court to strike entire


documents.¹ See Yates v. Applied Performance Tech., Inc., 205 F.R.D. 497, 500 (S.D. Ohio 2002). Accordingly, as the Plaintiffs have failed to establish any grounds for striking the motions to dismiss, their request therefor is DENIED.

In the alternative, the Plaintiffs seek relief pursuant to Fed. R. Civ. P. 56(f), which provides that

[s]hould it appear from the affidavits of a party opposing the motion that the party cannot for reasons stated present by affidavit facts essential to justify the party's opposition, the court may refuse the application for judgment or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as is just.

Rule 56 governs only motions for summary judgment. Therefore, relief under subsection (f) of the Rule is appropriate only where the matter before the Court is a motion for summary judgment, which is not the case here. Indeed, in an order entered October 8, 2002, District Judge Bernice B. Donald denied the motions to dismiss of AMFA and Northwest, granted the motions to dismiss filed by Northwest Airlines Corp. and IAM, and stayed the proceedings pending the outcome of arbitration. Thus, as it appears to the Court that the instant motion is now moot, it is hereby DENIED.

IT IS SO ORDERED this 25th day of April, 2005.


J. DANIEL BREEN
UNITED STATES DISTRICT JUDGE

¹As striking even a portion of a pleading is a drastic remedy, motions to strike are generally viewed unfavorably and are rarely granted. See Brown & Williamson Tobacco Corp. v. United States, 201 F.2d 819, 822 (6th Cir. 1953); AT&T Global Information Solutions Co. v. Union Tank Car Co., No. C2-94-876, 1997 WL 382101, at *1 (S.D. Ohio Mar. 31, 1997); 5A Charles Alan Wright & Arthur R. Miller, Federal Practice and Procedure § 1380 (2d ed. 1990).



Notice of Distribution

This notice confirms a copy of the document docketed as number 160 in case 2:02-CV-02203 was distributed by fax, mail, or direct printing on April 26, 2005 to the parties listed.

Jeffrey A. Bartos
GUERRIERI EDMOND & CLAYMAN
1625 Massachusetts Ave., N.W.
Ste. 700
Washington, DC 20036--224

Mark A. Allen
PROVOST & UMPHREY, LLP
200 Jefferson Ave.
Ste. 250
Memphis, TN 38103

Stanley J. Silverstone
SEHAM SHEHAM MELTZ PETERSEN, LLP
445 Hamilton Ave.
Ste. 1204
White Plains, NY 10601

Carmen R. Parcelli
GUERRIERI EDMOND & CLAYMAN
1625 Massachusetts Ave., N.W.
Ste. 700
Washington, DC 20036--224

Lee Seham
SEHAM SHEHAM MELTZ PERERSEN, LLP
445 Hamilton Ave.
Ste. 1204
White Plains, NY 10601

John J. Gallagher
PAUL HASTINGS JANOFKY & WAKLER LLP
875 15th St. N.W.
Washington, DC 20005

Joseph Guerrieri
GUERRIERI EDMOND & CLAYMAN
1625 Massachusetts Ave., N.W.
Ste. 700
Washington, DC 20036--224

Stephanie Camille Reifers
BATEMAN GIBSON & CHILDERS
65 Union Ave.
1010 Cotton Exchange Bldg.
Memphis, TN 38103

Nicholas P. Granath
SEHAM, SEHAM, MELTZ & PETERSEN, LLP
2950 Metro Drive
Ste 301
Bloomington, MN 55425

Margaret H. Spurlin
PAUL HASTINGS JANOFISKY & WAKLER LLP-Washington
875 15th St., N.W.
Washington, DC 20005

Stephen D. Goodwin
BAKER DONELSON BEARMAN CALDWELL & BERKOWITZ
165 Madison Ave.
Ste. 2000
Memphis, TN 38103

Ralph T. Gibson
BATEMAN GIBSON & CHILDERS
65 Union Ave.
1010 Cotton Exchange Bldg.
Memphis, TN 38103

Kenneth M. Willner
PAUL HASTINGS JANOFISKY & WAKLER LLP-Washington
875 15th St., N.W.
Washington, DC 20005

Charles McGhee
BLANTON & MCGHEE
5384 Poplar Ave.
Ste. 400
Memphis, TN 38119

Karen L Dingle
SEHAM SHEHAM MELTZ PERERSEN, LLP
11 Martine Ave.
Ste. 1405
White Plains, NY 10606

Honorable J. Breen
US DISTRICT COURT